

REMARKS

The present paper is submitted in response to the Office Action. Claims 1, 23, and 28 are amended. Claims 1-40 remain pending. The specification has also been amended to correct typographical errors. No new matter has been introduced by these amendments.

Reconsideration of the application is respectfully requested in view of the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. GENERAL CONSIDERATIONS

A. Claim Amendments

With particular reference to the claim amendments, Applicants note that while claims 1, 23, and 28 have been amended herein, such amendments have been made in the interest of expediting the allowance of this case. Notwithstanding, Applicants, may, on further consideration, determine that claims of broader scope than those now presented are supported. Accordingly, Applicants hereby reserve the right to file one or more continuing applications with claims broader in scope than the claims now presented.

Consistent with the points set forth above, Applicants submit that neither the claim amendments set forth herein, nor any other claim amendments, claim cancellations or statements advanced by the Applicants in this or any related case, constitute or should be construed as, an implicit or explicit surrender or disclaimer of claim scope with respect to the cited, or any other, references.

B. Remarks

Applicants note that the remarks, or a lack of remarks, set forth herein are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicants: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicants reserve the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

II. REJECTION UNDER 35 U.S.C. § 112

The Examiner rejected claim 40 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. However, the Advisory Action indicates that

“Applicant’s arguments [filed on September 23, 2008] regarding the 112 rejection of claim 40 is persuasive and is withdrawn.” Therefore, the rejection has been withdrawn.

III. REJECTION UNDER 35 U.S.C. §102(b)

The Examiner rejected claims 1-5, 8-10, 12, 13, 23-26, and 28-30 under 35 U.S.C. § 102(b) as being anticipated by *Creedon et al.* (U.S. Patent No. 6,385,669). Because *Creedon* does not describe each and every element of the rejected claims, Applicants respectfully traverse the rejection in view of the following remarks.

In the Office Action, the Examiner made a variety of characterizations of *Creedon*, at least three of which Applicants have been able to identify as separate characterizations. Each of these characterizations is discussed in turn below. Because the separate characterizations are not clearly identified by the Examiner, clarification is respectfully requested if the number of characterizations is believed to differ or if Applicants’ understanding of a characterization is inaccurate.

A. First Characterization of *Creedon*

In the “Claim Rejections” section of the Office Action, the Examiner alleged that the monitoring and detecting limitations recited in each of claims 1, 23, and 28 read on column 4, lines 60-67 of *Creedon*, which describes a frame preamble. *See Office Action*, pp. 3, 4, and 5. The rejection is repeated almost verbatim from the previous two Office Actions. However, as noted in Applicants’ previous responses filed on December 10, 2007 (*see* pages 10 and 11), and on April 25, 2008 (*see* pages 15 and 16), the Examiner’s characterization of *Creedon* implies that the station management entity 10 inherently monitors and detects its own preamble. The Advisory Action confirms this to be the Examiner’s interpretation of *Creedon*. For example, according to the Advisory Action, “To communicate in *Creedon*’s system, the master is required to communicate a preamble of 32 consecutive logic ones before the frame starts... It is inherent the master has to monitor the data wire for 32 consecutive logic ones to meet the preamble requirement.”

Applicants respectfully disagree with this characterization of *Creedon* and note that allegations of inherency are not readily established. Nonetheless, in the interest of expediting allowance of the claims, Applicants have amended claims 1, 23, and 28 to recite “at least a portion of the consecutive bits do not originate from the master component.” Therefore, even assuming, *arguendo*, the Examiner’s characterization of *Creedon* is correct (i.e., management

entity 10 of *Creedon* monitors and detects its own preamble), the claims, as amended, do not read on this characterization.

B. Second Characterization of *Creedon*

In the “Response to Arguments” section of the Office Action, the Examiner characterized *Creedon* in another way. In particular, the Examiner alleged that the monitoring and detecting limitations read on column 4, lines 43-44, which purportedly describes a default voltage level on a bus line 13. *See Office Action*, pp. 8 and 9 (“*Creedon* discloses the act of monitoring for at least a predetermined number of consecutive bits of the same binary polarity (i.e. Logic one, which is the default logic [of line 13] caused by [a] pull up resistor).”)

However, as noted in Applicants’ previous response filed on April 25, 2008 (*see page 16*), *Creedon* describes determining a voltage level of line 13 “at controlled times.” *See col. 4, lines 17 and 18* (emphasis added). In contrast each of claims 1, 23, and 28 recites “monitoring the data wire of the two-wire interface upon determining that the operation is to be performed on the slave component.” (Emphasis added.)

While this shortcoming in the rejection was clearly identified in Applicants’ paper filed April 25, 2008, the Examiner has nonetheless failed to respond, in the Office Action mailed July 25, 2008, to the points advanced by Applicants in that paper. The failure of the Examiner to address Applicants’ prior arguments is contrary to established examination guidelines. Particularly, Applicants note that “[w]here the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant’s argument and answer the substance of it.” *See MPEP § 707.07(f)* (emphasis added).

C. Third Characterization of *Creedon*

The Examiner’s third characterization of *Creedon* also appeared in the “Response to Arguments” section of the Office Action. The Examiner alleged that certain techniques described in paragraphs [0042] and [0043] of Applicants’ specification are “used by applicant’s method to monitor and detect consecutive bits” and that “[t]his is the same as the *Creedon*’s method for monitoring and detecting the consecutive bits.” Applicants respectfully disagree.

The Examiner has not established, beyond mere allegation, either of the following: 1) that the techniques in paragraphs [0042] and [0043] must be “used by” the claimed method, or 2) that the claimed method “is the same as” anything described by *Creedon*. In fact, *Creedon* teaches that “a management frame...is conveyed...when the state machine requires to perform

either a write operation or a read operation on...device 11." See col. 4, lines 58-62. In sharp contrast, each of claims 1, 23, and 28 recites "monitoring the data wire...upon determining that [an] operation is to be performed on [a] slave component; [and] detecting at least a predetermined number of consecutive bits...while monitoring the data wire."

Moreover, the sweeping assertion that "applicant's method...is the same as the *Creedon*'s method" is not supported by substantial evidence at least inasmuch as the Examiner has not cited any particular teaching in *Creedon* to support the assertion. Therefore the Examiner has failed to establish, beyond mere allegation, that the claims are anticipated under 35 U.S.C. § 102(b). See MPEP § 2144.03 ("The standard of review applied to findings of fact is the 'substantial evidence' standard under the Administrative Procedure Act (APA).") (citing *In re Gartside*, 203 F.3d 1305, 1315 (Fed. Cir. 2000)). With regard to the foregoing, Applicants further note in general that "[t]he goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity." See MPEP § 706 (emphasis added).

In view of the foregoing remarks regarding each of the *Creedon* characterizations, Applicants respectfully submit that the Examiner has failed to establish that *Creedon* anticipates any one of claims 1, 23, or 28, at least because the Examiner has not established that each and every element as set forth in the claims is found in *Creedon*, and because the Examiner has not established that the identical invention is shown in *Creedon* in as complete detail as is contained in the claims. Applicants thus respectfully submit that the rejection of claims 1, 23, and 28, and corresponding dependent claims 2-5, 8-10, 12, 13, 24-26, 29, and 30, should be withdrawn.

IV. REJECTION UNDER 35 U.S.C. §103

The Examiner rejected claims 6, 7, 11, 14-22, and 31-40 under 35 U.S.C. § 103 as being unpatentable over *Creedon et al.* (U.S. Patent No. 6,385,669) in view of what is purportedly "well known in the art."

Applicants note that inasmuch as the rejection of claims 6, 7, 11, 14-22, and 31-40 relies on the characterization of *Creedon* advanced by the Examiner in connection with the rejection of claims 1 and 28, the rejection of claims 6, 7, 11, 14-22, and 31-40 lacks an adequate basis for at least the reasons set forth in the discussion at section III above. Accordingly, the attention of the Examiner is respectfully directed to such discussion. For example, it was noted in such

discussion that the Examiner has failed to establish that *Creedon* teaches all the limitations of claims 1 and 28, from which claims 6, 7, 11, 14-22, and 31-40 depend. Thus, Applicants respectfully submit that it is clear that even if the references are combined, the resulting combination fails to include all the limitations of claims 6, 7, 11, 14-22, and 31-40.

V. CHARGE AUTHORIZATION

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; and/or (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested, please consider this a petition therefor and charge any additional fees that may be required to Deposit Account No. 23-3178.

CONCLUSION

In view of the foregoing, Applicants believe the claims are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 24th day of April, 2009.

Respectfully submitted,

/Ronald J. Ward/Reg. No. 54,870

RONALD J. WARD
Registration No. 54,870
ERIC L. MASCHOFF
Registration No. 36,596
Attorneys for Applicant
Customer No. 022913
Telephone: (801) 533-9800

RJW:jbh
2357075_1